

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JASON KERNS,

Defendant.

CRIMINAL NO. CR 05-177

**FILED**  
UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

MAY 10 2006

MATTHEW J. DYKMAN  
CLERK

**GOVERNMENT'S MOTION TO  
DISMISS INDICTMENT WITHOUT PREJUDICE.**

The United States of America, by and through David C. Iglesias, United States Attorney for the District of New Mexico and Charles L. Barth, Assistant U.S. Attorney for said District hereby file this Motion to Dismiss Without Prejudice the indictment filed in this cause number on August 17, 2005. As grounds for this motion the government states:

1. On August 17, 2005, a five count indictment was filed in this cause number charging the defendant with violations of 18 U.S.C. §§ 32(a)(1), 32(a)(5) and (7): Destruction of Aircraft or Aircraft Facilities and 924 (c)(1)(A)(iii): Use of a firearm During and in Relation to a Crime of Violence (Discharge).

2. After reviewing all of the ballistics work conducted in this case, the government now believes that there is insufficient evidence at this time to proceed with this case.

3. Marc. M. Lowry, Attorney for Defendant Jason Kerns does not oppose this motion.

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Wherefore, the United States respectfully requests that this Court grant the government's unopposed Motion to Dismiss Indictment Without Prejudice.

Respectfully submitted,

DAVID C. IGLESIAS  
United States Attorney



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I HEREBY CERTIFY that a true copy of the foregoing pleading was hand delivered to opposing counsel of record, Marc M. Lowry, this 10th day of May, 2006.



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CHARLES L. BARTH  
Assistant U.S. Attorney